

House Amendments to Senate Bill No. 2689

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

33 SECTION 1. (1) The personal use of campaign contributions
34 by any elected public office holder or by any candidate for public
35 office is prohibited.

36 (a) For the purposes of this section, "personal use" is
37 defined as any use, other than expenditures related to gaining or
38 holding public office, or performing the functions and duties of
39 public office, for which the candidate for public office or
40 elected public official would be required to treat the amount of
41 the expenditure as gross income under Section 61 of the Internal
42 Revenue Code of 1986, 26 USC Section 61, or any subsequent
43 corresponding Internal Revenue Code of the United States, as from
44 time to time amended. "Personal use" shall not include donations
45 to a political organization, or to a political action committee,
46 or to another candidate.

47 (b) "Candidate" shall mean any individual described in
48 Section 23-15-801(b), and shall include any person having been a

49 candidate until such time that the person takes office or files a
50 termination report as provided in this section.

51 (c) "Officeholder" shall mean any elected or appointed
52 official from the beginning of his or her term of office until
53 that person no longer holds office.

54 (2) The following personal use expenditures are specifically
55 prohibited under this section:

56 (a) Any residential or household items, supplies or
57 expenditures, including mortgage, rent or utility payments for any
58 part of any personal residence where a homestead exemption is
59 claimed of a candidate or officeholder or a member of the
60 candidate's or officeholder's family;

61 (b) Mortgage, rent or utility payments for any part of
62 any nonresidential property that is owned by a candidate or
63 officeholder or a member of a candidate's or officeholder's family
64 and used for campaign purposes, to the extent the payments exceed
65 the fair market value of the property usage;

66 (c) Funeral, cremation or burial expenses within a
67 candidate's or officeholder's family;

68 (d) Clothing, other than items of de minimis value that
69 are used for gaining or holding public office or performing the
70 functions and duties of public office;

71 (e) Automobiles, except for automobile rental expenses
72 and other automobile expenses related to gaining or holding public
73 office or performing the functions and duties of public office;

74 (f) Tuition payments within a candidate's or
75 officeholder's family other than those associated with training
76 campaign staff or associated with an officeholder's duties;

77 (g) Salary payments to a member of a candidate's
78 family, unless the family member is providing bona fide services
79 to the campaign. If a family member provides bona fide services
80 to a campaign, any salary payments in excess of the fair market
81 value of the services provided is personal use;

82 (h) Nondocumented loans of any type, including loans to
83 candidates;

84 (i) Travel expenses except for travel expenses of a
85 candidate, officeholder or staff member of the officeholder for
86 travel undertaken as an ordinary and necessary expense of gaining
87 or holding public office, or performing the functions and duties
88 of public office or for attending meetings or conferences of
89 officials similar to the office held or sought, or for an issue
90 the legislative body is or will consider, or attending a state or
91 national convention of any party. If a candidate or officeholder
92 uses campaign contributions to pay expenses associated with travel
93 that involves both personal activities and activities related to
94 gaining or holding public office or performing the functions and
95 duties of public office, the incremental expenses that result from
96 the personal activities are personal use, unless the person(s)
97 benefiting from this use reimburse(s) the campaign account within
98 thirty (30) days for the amount of the incremental expenses; and

99 (j) Payment of any fines, fees or penalties assessed
100 pursuant to Mississippi law.

101 (3) Any expense that reasonably relates to gaining or
102 holding public office, or performing the functions and duties of
103 public office is a specifically permitted use of campaign
104 contributions. Such expenditures are not considered personal use
105 expenditures and may include, but are not limited to, the
106 following expenditures:

107 (a) The defrayal of ordinary and necessary expenses of
108 a candidate or officeholder, including expenses reasonably related
109 to performing the duties of the office held or sought to be held;

110 (b) Campaign office or officeholder office expenses and
111 equipment, provided the expenditures and the use of the equipment
112 can be directly attributable to the campaign or office held;

113 (c) Donations to charitable organizations,
114 not-for-profit organizations or for sponsorships, provided the
115 candidate or officeholder does not receive monetary compensation,
116 other than reimbursements of expenses, from the recipient
117 organization;

118 (d) Gifts of nominal value and donations of a nominal
119 amount made on a special occasion such as a holiday, graduation,
120 marriage, retirement or death, unless made to a member of the
121 candidate's or officeholder's family;

122 (e) Meal and beverage expenses which are incurred as
123 part of a campaign activity or as a part of a function that is
124 related to the candidate's or officeholder's responsibilities,

125 including meals between and among candidates and/or officeholders
126 that are incurred as an ordinary and necessary expense of seeking,
127 holding or maintaining public office, or seeking, holding or
128 maintaining a position within the Legislature or other publicly
129 elected body;

130 (f) Reasonable rental or accommodation expenses
131 incurred by an officeholder during a legislative session or a day
132 or days in which the officeholder is required by his or her duties
133 to be at the Capitol or another location outside the
134 officeholder's county of residence. Such rental or accommodation
135 expenses shall not exceed Fifty Dollars (\$50.00) per day, if the
136 officeholder receives per diem, or One Hundred Ninety Dollars
137 (\$190.00) per day, if the officeholder receives no per diem. Any
138 expenses incurred under this paragraph (f) must be reported as an
139 expenditure pursuant to this section;

140 (g) Communication access expenses, including mobile
141 devices and Internet access costs. Examples of communication
142 access expenses include, but are not limited to, the following:
143 captioning on television advertisements; video clips; sign
144 language interpreters; computer-aided real time (CART) services;
145 and assistive listening devices;

146 (h) Costs associated with memberships to chambers of
147 commerce and civic organizations;

148 (i) Legal fees and costs associated with any civil
149 action, criminal prosecution or investigation related to conduct

150 reasonably related to the candidacy or performing the duties of
151 the office held.

152 (4) Upon filing the termination report required under
153 Section 23-15-807, any campaign contributions not used to pay for
154 the expenses of gaining or holding public office or performing the
155 functions and duties of public office shall:

156 (a) Be maintained in a campaign account(s);

157 (b) Be donated to a political organization, or to a
158 political action committee, or to another candidate;

159 (c) Be transferred, in whole or in part, into a newly
160 established political action committee or ballot question
161 advocate;

162 (d) Be donated to a tax-exempt charitable organization
163 as that term is used in Section 501(c)(3) of the Internal Revenue
164 Code of 1986, 26 USC Section 501, or any subsequent corresponding
165 Internal Revenue Code of the United States, as from time to time
166 amended;

167 (e) Be donated to the State of Mississippi; or

168 (f) Be returned to a donor or donors.

169 (5) Any candidate for public office or any elected official
170 who willfully violates this section shall be guilty of a
171 misdemeanor and punished by a fine of One Thousand Dollars
172 (\$1,000.00) and by a state assessment equal to the amount of
173 misappropriated campaign contributions. The state assessment
174 shall be deposited into the Public Employees' Retirement System.

175 No fine or assessment imposed under this section shall be paid by
176 a third party.

177 (6) Any contributions accruing to a candidate's or
178 officeholder's campaign account before January 1, 2018, shall be
179 exempt and not subject to the provisions of this Section 1. All
180 exempt contributions must be designated as exempt on all reports
181 filed with the Secretary of State pursuant to the provisions of
182 this chapter.

183 (7) The Mississippi Ethics Commission shall issue advisory
184 opinions regarding any of the requirements set forth in this
185 section. When any officeholder or candidate requests an advisory
186 opinion, in writing, and has stated all of the facts to govern the
187 opinion, and the Ethics Commission has prepared and delivered the
188 opinion with references to the request, there shall be no civil or
189 criminal liability accruing to or against any officeholder or
190 candidate who, in good faith, follows the direction of the opinion
191 and acts in accordance with the opinion, unless a court of
192 competent jurisdiction, after a full hearing, judicially declares
193 that the opinion is manifestly wrong and without any substantial
194 support. No opinion shall be given or considered if the opinion
195 would be given after judicial proceedings have commenced.

196 All advisory opinions issued pursuant to the provisions of
197 this subsection (7) shall be made public and shall be issued
198 within ninety (90) days of written request. The request for an
199 advisory opinion shall be confidential as to the identity of the
200 individual making the request. The Ethics Commission shall, so

201 far as practicable and before making public, an advisory opinion
202 issued under the provisions of on this subsection (7), make such
203 deletions and changes thereto as may be necessary to ensure the
204 anonymity of the public official and any other person named in the
205 opinion.

206 **SECTION 2.** Section 23-15-801, Mississippi Code of 1972, is
207 amended as follows:

208 23-15-801. (a) "Election" * * * means a general, special,
209 primary or runoff election.

210 (b) "Candidate" * * * means an individual who seeks
211 nomination for election, or election, to any elective office other
212 than a federal elective office * * *. For purposes of this
213 article, an individual shall be deemed to seek nomination for
214 election, or election:

215 (i) If * * * the individual has received contributions
216 aggregating in excess of Two Hundred Dollars (\$200.00) or has made
217 expenditures aggregating in excess of Two Hundred Dollars
218 (\$200.00) or for a candidate for the Legislature or any statewide
219 or state district office, by the qualifying deadlines specified in
220 Sections 23-15-299 and 23-15-977, whichever occurs first; or

221 (ii) If * * * the individual has given his or her
222 consent to another person to receive contributions or make
223 expenditures on behalf of * * * the individual and if * * * the
224 other person has received * * * contributions aggregating in
225 excess of Two Hundred Dollars (\$200.00) during a calendar year, or

226 has made * * * expenditures aggregating in excess of Two Hundred
227 Dollars (\$200.00) during a calendar year.

228 (c) "Political committee" * * * means any committee, party,
229 club, association, political action committee, campaign committee
230 or other groups of persons or affiliated organizations * * * that
231 receives contributions aggregating in excess of Two Hundred
232 Dollars (\$200.00) during a calendar year or * * * that makes
233 expenditures aggregating in excess of Two Hundred Dollars
234 (\$200.00) during a calendar year for the purpose of influencing or
235 attempting to influence the action of voters for or against the
236 nomination for election, or election, of one or more candidates,
237 or balloted measures * * *. Political committee shall, in
238 addition, include each political party registered with the
239 Secretary of State.

240 (d) "Affiliated organization" * * * means any
241 organization * * * that is not a political committee, but * * *
242 that directly or indirectly establishes, administers or
243 financially supports a political committee.

244 (e) (i) "Contribution" shall include any gift,
245 subscription, loan, advance or deposit of money or anything of
246 value made by any person or political committee for the purpose of
247 influencing any election for elective office or balloted measure;

248 (ii) "Contribution" shall not include the value of
249 services provided without compensation by any individual who
250 volunteers on behalf of a candidate or political committee; or the
251 cost of any food or beverage for use in any candidate's campaign

252 or for use by or on behalf of any political committee of a
253 political party;

254 (iii) "Contribution to a political party" includes any
255 gift, subscription, loan, advance or deposit of money or anything
256 of value made by any person, political committee, or other
257 organization to a political party and to any committee,
258 subcommittee, campaign committee, political committee and other
259 groups of persons and affiliated organizations of the political
260 party * * *;

261 (iv) "Contribution to a political party" shall not
262 include the value of services provided without compensation by any
263 individual who volunteers on behalf of a political party or a
264 candidate of a political party.

265 (f) (i) "Expenditure" shall include any purchase, payment,
266 distribution, loan, advance, deposit, gift of money or anything of
267 value, made by any person or political committee for the purpose
268 of influencing any balloted measure or election for elective
269 office; and a written contract, promise, or agreement to make an
270 expenditure;

271 (ii) "Expenditure" shall not include any news story,
272 commentary or editorial distributed through the facilities of any
273 broadcasting station, newspaper, magazine, or other periodical
274 publication, unless * * * the facilities are owned or controlled
275 by any political party, political committee, or candidate; or
276 nonpartisan activity designed to encourage individuals to vote or
277 to register to vote;

278 (iii) "Expenditure by a political party" includes 1.
279 any purchase, payment, distribution, loan, advance, deposit, gift
280 of money or anything of value, made by any political party and by
281 any contractor, subcontractor, agent, and consultant to the
282 political party; and 2. a written contract, promise, or agreement
283 to make such an expenditure.

284 (g) The term "identification" shall mean:

285 (i) In the case of any individual, the name, the
286 mailing address, and the occupation of such individual, as well as
287 the name of his or her employer; and

288 (ii) In the case of any other person, the full name and
289 address of * * * the person.

290 (h) The term "political party" shall mean an association,
291 committee or organization which nominates a candidate for election
292 to any elective office whose name appears on the election ballot
293 as the candidate of * * * the association, committee or
294 organization.

295 (i) The term "person" shall mean any individual, family,
296 firm, corporation, partnership, association or other legal entity.

297 (j) The term "independent expenditure" shall mean an
298 expenditure by a person expressly advocating the election or
299 defeat of a clearly identified candidate * * * that is made
300 without cooperation or consultation with any candidate or any
301 authorized committee or agent of * * * the candidate, and * * *
302 that is not made in concert with or at the request or suggestion

303 of any candidate or any authorized committee or agent of * * * the
304 candidate.

305 (k) The term "clearly identified" shall mean that:

306 (i) The name of the candidate involved appears; or

307 (ii) A photograph or drawing of the candidate appears;

308 or

309 (iii) The identity of the candidate is apparent by
310 unambiguous reference.

311 **SECTION 3.** Section 23-15-803, Mississippi Code of 1972, is
312 amended as follows:

313 23-15-803. (* * * 1) * * * Each political committee shall
314 file a statement of organization which must be received by the
315 Secretary of State no later than * * * forty-eight (48) hours
316 after:

317 (a) Receipt of contributions aggregating in excess of
318 Two Hundred Dollars (\$200.00), or * * *

319 (b) Having made expenditures aggregating in excess of
320 Two Hundred Dollars (\$200.00).

321 (* * * 2) * * * The content of the statement of organization
322 of a political committee shall include:

323 (* * * a) The name, * * * address, officers, and
324 members of the committee * * *;

325 (* * * b) The designation of a * * * chair of the * * *
326 organization and a custodian of the financial books, records and
327 accounts of the * * * organization, who shall be designated
328 treasurer; and

329 (* * *c) If the committee is authorized by a
330 candidate, then the name, address, office sought * * * and party
331 affiliation of the candidate.

332 (* * *3) * * * Any change in information previously
333 submitted in a statement of organization shall be reported and
334 noted on the next regularly scheduled report.

335 (4) In addition to any other penalties provided by law, the
336 Mississippi Ethics Commission may impose administrative penalties
337 against any political committee that fails to comply with the
338 requirements of this section in an amount not to exceed Five
339 Thousand Dollars (\$5,000.00) per violation. The notice, hearing
340 and appeals provisions of Section 23-15-813 shall apply to any
341 action taken pursuant to this subsection (4). The Mississippi
342 Ethics Commission may pursue judicial enforcement of any penalties
343 issued pursuant to this section.

344 **SECTION 4.** Section 23-15-805, Mississippi Code of 1972, is
345 amended as follows:

346 23-15-805. (a) Candidates for state, state district, and
347 legislative district offices, and every political committee, which
348 makes reportable contributions to or expenditures in support of or
349 in opposition to a candidate for any such office or makes
350 reportable contributions to or expenditures in support of or in
351 opposition to a statewide ballot measure, shall file all reports
352 required under this article with the Office of the Secretary of
353 State.

354 (b) Candidates for county or county district office, and
355 every political committee which makes reportable contributions to
356 or expenditures in support of or in opposition to a candidate for
357 such office or makes reportable contributions to or expenditures
358 in support of or in opposition to a countywide ballot measure or a
359 ballot measure affecting part of a county, excepting a municipal
360 ballot measure, shall file all reports required by this section in
361 the office of the circuit clerk of the county in which the
362 election occurs, or directly to the Office of the Secretary of
363 State via facsimile, electronic mail, postal mail or hand
364 delivery. The circuit clerk shall forward copies of all reports
365 to the Office of the Secretary of State.

366 (c) Candidates for municipal office, and every political
367 committee which makes reportable contributions to or expenditures
368 in support of or in opposition to a candidate for such office, or
369 makes reportable contributions to or expenditures in support of or
370 in opposition to a municipal ballot measure shall file all reports
371 required by this article in the office of the municipal clerk of
372 the municipality in which the election occurs, or directly to the
373 Office of the Secretary of State via facsimile, electronic mail,
374 postal mail or hand delivery. The municipal clerk shall forward
375 copies of all reports to the Office of the Secretary of State.

376 (d) The Secretary of State, the circuit clerks and the
377 municipal clerks shall make all reports received under this
378 subsection available for public inspection and copying and shall
379 preserve * * * the reports for a period of five (5) years.

380 * * *

381 **SECTION 5.** Section 23-15-807, Mississippi Code of 1972, is
382 amended as follows:

383 23-15-807. (a) Each candidate or political committee shall
384 file reports of contributions and disbursements in accordance with
385 the provisions of this section. All candidates or political
386 committees required to report such contributions and disbursements
387 may terminate * * * the obligation to report only upon submitting
388 a final report that * * * contributions will no longer * * * be
389 received or * * * disbursements made and that * * * the candidate
390 or committee has no outstanding debts or obligations. The
391 candidate, treasurer or chief executive officer shall sign * * *
392 the report.

393 (b) Candidates * * * seeking election, or nomination for
394 election, and political committees * * * making expenditures * * *
395 to influence * * * or attempt to influence voters for or against
396 the nomination for election * * * of one or more candidates or
397 balloted measures at such election, shall file the following
398 reports:

399 (i) In any calendar year during which there is a
400 regularly scheduled election, a pre-election report * * * shall be
401 filed no later than the seventh day before any election in
402 which * * * the candidate or political committee has accepted
403 contributions or made expenditures and * * * shall be * * *
404 completed as of the tenth day before * * * the election;

405 (ii) In 1987 and every fourth year thereafter, periodic
406 reports * * * shall be filed no later than the tenth day after
407 April 30, May 31, June 30, September 30 and December 31, and * * *
408 shall be * * * completed as of the last day of each period; * * *

409 (iii) In any calendar years except 1987 and except
410 every fourth year thereafter, a report covering the calendar
411 year * * * shall be filed no later than January 31 of the
412 following calendar year * * *; and

413 (iv) Except as otherwise provided in the requirements
414 of subparagraph (i) of this paragraph (b), unopposed candidates
415 are not required to file pre-election reports but must file all
416 other reports required by subparagraphs (ii) and (iii) of this
417 paragraph (b).

418 (c) All candidates for judicial office as defined in Section
419 23-15-975, or their political committees, shall file periodic
420 reports in the year in which they are to be elected * * * no later
421 than the tenth day after April 30, May 31, June 30, September 30
422 and December 31.

423 (d) * * * Each report under this article shall disclose:

424 (i) For the reporting period and the calendar year, the
425 total amount of all contributions and the total amount of all
426 expenditures of the candidate or reporting committee * * *,
427 including those required to be identified pursuant to * * *
428 subparagraph (ii) of this paragraph (d) as well as the total of
429 all other contributions and expenditures during the calendar year.

430 * * * The reports shall be cumulative during the calendar year to
431 which they relate;

432 (ii) The identification of:

433 1. Each person or political committee who makes a
434 contribution to the reporting candidate or political committee
435 during the reporting period, whose contribution or contributions
436 within the calendar year have an aggregate amount or value in
437 excess of Two Hundred Dollars (\$200.00) together with the date and
438 amount of any such contribution;

439 2. Each person or organization, candidate or
440 political committee who receives an expenditure, payment or other
441 transfer from the reporting candidate, political committee or its
442 agent, employee, designee, contractor, consultant or other person
443 or persons acting in its behalf during the reporting period when
444 the expenditure, payment or other transfer to * * * the person,
445 organization, candidate or political committee within the calendar
446 year have an aggregate value or amount in excess of Two Hundred
447 Dollars (\$200.00) together with the date and amount of * * * the
448 expenditure * * *;

449 (iii) The total amount of cash on hand of each
450 reporting candidate and reporting political committee;

451 (iv) In addition to the contents of reports specified
452 in * * * subparagraphs (i), (ii) and (iii) of this paragraph (d),
453 each political party shall disclose:

454 1. Each person or political committee who makes a
455 contribution to a political party during the reporting period and

456 whose contribution or contributions to a political party within
457 the calendar year have an aggregate amount or value in excess of
458 Two Hundred Dollars (\$200.00), together with the date and amount
459 of the contribution;

460 2. Each person or organization who receives an
461 expenditure or expenditures by a political party * * * during the
462 reporting period when the expenditure or expenditures to the
463 person or organization within the calendar year have an aggregate
464 value or amount in excess of Two Hundred Dollars (\$200.00),
465 together with the date and amount of * * * the expenditure * * *;

466 (v) Disclosure required under this section of an
467 expenditure to a credit card issuer, financial institution or
468 business allowing payments and money transfers to be made over the
469 Internet must include, by way of detail or separate entry, the
470 amount of funds passing to each person, business entity or
471 organization receiving funds from the expenditure.

472 (e) The appropriate office specified in Section 23-15-805
473 must be in actual receipt of the reports specified in this article
474 by 5:00 p.m. on the dates specified in paragraph (b) of this
475 section. If the date specified in paragraph (b) of this section
476 shall fall on a weekend or legal holiday then the report shall be
477 due in the appropriate office at 5:00 p.m. on the first working
478 day before the date specified in paragraph (b) of this section.
479 The reporting candidate or reporting political committee shall
480 ensure that the reports are delivered to the appropriate office by
481 the filing deadline. The Secretary of State may approve specific

482 means of electronic transmission of completed campaign finance
483 disclosure reports, which may include, but not be limited to,
484 transmission by electronic facsimile (FAX) devices.

485 (f) (i) If any contribution of more than Two Hundred
486 Dollars (\$200.00) is received by a candidate or candidate's
487 political committee after the tenth day, but more than forty-eight
488 (48) hours before 12:01 a.m. of the day of the election, the
489 candidate or political committee shall notify the appropriate
490 office designated in Section 23-15-805, within forty-eight (48)
491 hours of receipt of the contribution. The notification shall
492 include:

- 493 1. The name of the receiving candidate;
- 494 2. The name of the receiving candidate's political
495 committee, if any;
- 496 3. The office sought by the candidate;
- 497 4. The identification of the contributor;
- 498 5. The date of receipt;
- 499 6. The amount of the contribution;
- 500 7. If the contribution is in-kind, a description
501 of the in-kind contribution; and
- 502 8. The signature of the candidate or the treasurer
503 or * * * chair of the candidate's political * * * organization.

504 (ii) The notification shall be in writing, and may be
505 transmitted by overnight mail, courier service, or other reliable
506 means, including electronic facsimile (FAX), but the candidate or
507 candidate's committee shall ensure that the notification shall in

508 fact be received in the appropriate office designated in Section
509 23-15-805 within forty-eight (48) hours of the contribution.

510 **SECTION 6.** Section 23-15-811, Mississippi Code of 1972, is
511 amended as follows:

512 23-15-811. (a) Any candidate or any other person who * * *
513 willfully violates the provisions and prohibitions of this article
514 shall be guilty of a misdemeanor and upon conviction * * * shall
515 be punished by a fine in a sum not to exceed Three Thousand
516 Dollars (\$3,000.00) or imprisoned for not longer than six (6)
517 months or by both fine and imprisonment.

518 (b) In addition to the penalties provided in paragraph (a)
519 of this section and Chapter 13, Title 97, Mississippi Code of
520 1972, any candidate or political committee which is required to
521 file a statement or report * * * and fails to file * * * the
522 statement or report on the date * * * it is due may be compelled
523 to file * * * the statement or report by an action in the nature
524 of a mandamus brought by the Mississippi Ethics Commission.

525 (c) No candidate shall be certified as nominated for
526 election or as elected to office * * * until he or she files all
527 reports required by this article that are due as of the date of
528 certification.

529 (d) No candidate who is elected to office shall receive any
530 salary or other remuneration for the office * * * until he or she
531 files all reports required by this article that are due as of the
532 date * * * the salary or remuneration is payable.

533 (e) In the event that a candidate fails to timely file any
534 report required pursuant to this article but subsequently files a
535 report or reports containing all of the information required to be
536 reported * * *, the candidate shall not be subject to the
537 sanctions of * * * paragraphs (c) and (d) of this section.

538 **SECTION 7.** Section 23-15-813, Mississippi Code of 1972, is
539 amended as follows:

540 23-15-813. (a) In addition to any other penalty permitted
541 by law, the * * * Mississippi Ethics Commission shall require any
542 candidate or political committee, as identified in Section
543 23-15-805(a), and any other political committee registered with
544 the Secretary of State, who fails to file a campaign finance
545 disclosure report as required under Sections 23-15-801 through
546 23-15-813, or Sections 23-17-47 through 23-17-53, or who shall
547 file a report * * * that fails to substantially comply with the
548 requirements of Sections 23-15-801 through 23-15-813, or Sections
549 23-17-47 through 23-17-53, to be assessed a civil penalty as
550 follows:

551 (i) Within five (5) calendar days after any deadline
552 for filing a report pursuant to Sections 23-15-801 through
553 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of
554 State shall compile a list of those candidates and political
555 committees who have failed to file a report. The list shall be
556 provided to the Mississippi Ethics Commission. The Secretary of
557 State shall provide each candidate or political committee, who has

558 failed to file a report, notice of the failure by first-class
559 mail.

560 (ii) Beginning with the tenth calendar day after which
561 any report * * * is due, the * * * Mississippi Ethics Commission
562 shall assess the delinquent candidate and political committee a
563 civil penalty of Fifty Dollars (\$50.00) for each day or part of
564 any day until a valid report is delivered to the Secretary of
565 State, up to a maximum of ten (10) days. * * * In the discretion
566 of the * * * Mississippi Ethics Commission, the assessing of the
567 fine may be waived, in whole or in part, if the * * * Commission
568 determines that unforeseeable mitigating circumstances, such as
569 the health of the candidate, interfered with the timely filing of
570 a report. Failure of a candidate or political committee to
571 receive notice of failure to file a report from the Secretary of
572 State is not an unforeseeable mitigating circumstance, and failure
573 to receive the notice shall not result in removal or reduction of
574 any assessed civil penalty.

575 (iii) Filing of the required report and payment of the
576 fine within ten (10) calendar days of notice by the Secretary of
577 State that a required statement has not been filed * * *
578 constitutes compliance with Sections 23-15-801 through 23-15-813,
579 or Sections 23-17-47 through 23-17-53.

580 (iv) Payment of the fine without filing the required
581 report does not * * * excuse or exempt any person * * * from the
582 filing requirements of Sections 23-15-801 through 23-15-813, and
583 Sections 23-17-47 through 23-17-53.

584 (v) If any candidate or political committee is assessed
585 a civil penalty, and the penalty is not subsequently waived by
586 the * * * Mississippi Ethics Commission, the candidate or
587 political committee shall pay the fine to the * * * Commission
588 within ninety (90) days of the date of the assessment of the fine.
589 If, after one hundred twenty (120) days of the assessment of the
590 fine the payment for the entire amount of the assessed fine has
591 not been received by the * * * Commission, the * * * Commission
592 shall notify the Attorney General of the delinquency, and the
593 Attorney General shall file, where necessary, a suit to compel
594 payment of the civil penalty.

595 (b) (i) Upon the sworn application, made within sixty (60)
596 calendar days of the date upon which the required report is due,
597 of a candidate or political committee against whom a civil penalty
598 has been assessed pursuant to paragraph (a), the Secretary of
599 State shall forward the application to the State Board of Election
600 Commissioners. The State Board of Election Commissioners shall
601 appoint one or more hearing officers who shall be former
602 chancellors, circuit court judges, judges of the Court of Appeals
603 or justices of the Supreme Court, * * * to conduct hearings held
604 pursuant to this article. The hearing officer shall fix a time
605 and place for a hearing and shall cause a written notice
606 specifying the civil penalties that have been assessed against the
607 candidate or political committee and notice of the time and place
608 of the hearing to be served upon the candidate or political
609 committee at least twenty (20) calendar days before the hearing

610 date. The notice may be served by mailing a copy * * * of the
611 notice by certified mail, postage prepaid, to the last known
612 business address of the candidate or political committee.

613 (ii) The hearing officer may issue subpoenas for the
614 attendance of witnesses and the production of * * * documents at
615 the hearing. Process issued by the hearing officer shall extend
616 to all parts of the state and shall be served by any person
617 designated by the hearing officer for the service.

618 (iii) The candidate or political committee has the
619 right to appear either personally, by counsel or both, to produce
620 witnesses or evidence in his or her behalf, to cross-examine
621 witnesses and to have subpoenas issued by the hearing officer.

622 (iv) At the hearing, the hearing officer shall
623 administer oaths as may be necessary for the proper conduct of the
624 hearing. All hearings shall be conducted by the hearing officer,
625 who shall not be bound by strict rules of procedure or by the laws
626 of evidence * * *, but the determination shall be based upon
627 sufficient evidence to sustain it. The scope of review at the
628 hearing shall be limited to making a determination of whether
629 failure to file a required report was due to an unforeseeable
630 mitigating circumstance.

631 (v) * * * In any proceeding before the hearing officer,
632 if any witness fails or refuses to attend upon a subpoena issued
633 by the commission, refuses to testify, or refuses to produce
634 any * * * documents called for by a subpoena, the attendance of
635 the witness, the giving of his or her testimony or the production

636 of the * * * documents shall be enforced by * * * a court of
637 competent jurisdiction of this state in the manner provided for
638 the enforcement of attendance and testimony of witnesses in civil
639 cases in the courts of this state.

640 (vi) Within fifteen (15) calendar days after conclusion
641 of the hearing, the hearing officer shall reduce his or her
642 decision to writing and forward an attested true copy of the
643 decision to the last known business address of the candidate or
644 political committee by way of United States first-class, certified
645 mail, postage prepaid.

646 (c) (i) The right to appeal from the decision of the
647 hearing officer in an administrative hearing concerning the
648 assessment of civil penalties authorized pursuant to this section
649 is granted. The appeal shall be to the Circuit Court of Hinds
650 County and shall include a verbatim transcript of the testimony at
651 the hearing. The appeal shall be taken within thirty (30)
652 calendar days after notice of the decision of the commission
653 following an administrative hearing. The appeal shall be
654 perfected upon filing notice of the appeal and * * * the
655 prepayment of all costs, including the cost of * * * preparing the
656 record of the proceedings by the hearing officer, and * * *
657 filing * * * a bond in the sum of Two Hundred Dollars (\$200.00),
658 conditioned that if the decision of the hearing officer * * * is
659 affirmed by the court, the candidate or political committee will
660 pay the costs of the appeal and the action in court. If the
661 decision is reversed by the court, the * * * Mississippi Ethics

662 Commission will pay the costs of the appeal and the action in
663 court.

664 (ii) If there is an appeal, the appeal shall act as a
665 supersedeas. The court shall dispose of the appeal and enter its
666 decision promptly. The hearing on the appeal may be tried in
667 vacation, in the court's discretion. The scope of review of the
668 court shall be limited to a review of the record made before the
669 hearing officer to determine if the action of the hearing officer
670 is unlawful for the reason that it was 1. not supported by
671 substantial evidence, 2. arbitrary or capricious, 3. beyond the
672 power of the hearing officer to make, or 4. in violation of some
673 statutory or constitutional right of the appellant. The decision
674 of the court may be appealed to the Supreme Court in the manner
675 provided by law.

676 (d) If, after forty-five (45) calendar days of the date of
677 the administrative hearing procedure set forth in paragraph (b),
678 the candidate or political committee identified in paragraph (a)
679 of this section fails to pay the monetary civil penalty imposed by
680 the hearing officer, the Secretary of State shall notify the
681 Attorney General of the delinquency. The Attorney General shall
682 investigate the offense in accordance with the provisions of this
683 chapter, and where necessary, file suit to compel payment of the
684 unpaid civil penalty.

685 (e) If, after twenty (20) calendar days of the date upon
686 which a campaign finance disclosure report is due, a candidate or
687 political committee identified in paragraph (a) of this section

688 shall not have filed a valid report with the Secretary of State,
689 the Secretary of State shall notify the Attorney General of those
690 candidates and political committees who have not filed a valid
691 report, and the Attorney General shall * * * prosecute the
692 delinquent candidates and political committees.

693 **SECTION 8.** Section 23-15-817, Mississippi Code of 1972, is
694 amended as follows:

695 23-15-817. The Secretary of State shall compile a list of
696 all candidates for the Legislature or any statewide office who
697 fail to file a campaign disclosure report by the dates specified
698 in Section 23-15-807(b) * * *. The list shall be provided to the
699 Mississippi Ethics Commission so that the commission may bring a
700 mandamus as provided in Section 23-15-811 or take any other
701 disciplinary action as provided in this chapter. The list shall
702 also be disseminated to the members of the Mississippi Press
703 Association within two (2) working days after such reports are due
704 and made available to the public.

705 **SECTION 9.** This act shall take effect and be in force from
706 and after January 1, 2018.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO PROHIBIT THE USE OF CAMPAIGN CONTRIBUTIONS FOR
2 PERSONAL USE; TO PROVIDE FOR THE DISPOSITION OF UNUSED CAMPAIGN
3 FUNDS; TO AMEND SECTION 23-15-801, MISSISSIPPI CODE OF 1972, TO
4 MAKE TECHNICAL CHANGES; TO AMEND SECTION 23-15-803, MISSISSIPPI
5 CODE OF 1972, TO REVISE THE DEADLINE FOR FILING A STATEMENT OF
6 ORGANIZATION FOR A POLITICAL COMMITTEE TO 48 HOURS; TO REQUIRE THE
7 DISCLOSURE OF THE NAME, ADDRESS, OFFICERS AND MEMBERS OF A
8 POLITICAL COMMITTEE, THE DESIGNATION OF THE CHAIR AND THE

9 CUSTODIAN OF FINANCIAL BOOKS AND RECORDS; TO ALLOW THE MISSISSIPPI
10 ETHICS COMMISSION TO ADMINISTRATIVELY FINE POLITICAL COMMITTEES
11 NOT MORE THAN \$5,000.00, PER VIOLATION, FOR FAILING TO COMPLY WITH
12 FILING REQUIREMENTS; TO AMEND SECTION 23-15-805, MISSISSIPPI CODE
13 OF 1972, TO ALLOW CANDIDATES TO FILE CAMPAIGN FINANCE REPORTS
14 DIRECTLY WITH THE SECRETARY OF STATE BY FAX, EMAIL, POSTAL MAIL OR
15 HAND DELIVERY; TO AMEND SECTION 23-15-807, MISSISSIPPI CODE OF
16 1972, TO PROVIDE THAT UNOPPOSED CANDIDATES ARE NOT REQUIRED TO
17 FILE PRE-ELECTION REPORTS BUT MUST FILE ALL OTHER REPORTS; TO
18 PROVIDE THAT THE REQUIRED DISCLOSURE OF AN EXPENDITURE TO A CREDIT
19 CARD ISSUER, FINANCIAL INSTITUTION OR BUSINESS ALLOWING PAYMENTS
20 AND MONEY TRANSFERS TO BE MADE OVER THE INTERNET TO INCLUDE,
21 EITHER BY DETAIL OR A SEPARATE ENTITY, MUST INCLUDE THE AMOUNT OF
22 THE FUNDS PASSING TO EACH PERSON, BUSINESS ENTITY OR ORGANIZATION
23 RECEIVING FUNDS FROM THE EXPENDITURE; TO AMEND SECTION 23-15-811,
24 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE MISSISSIPPI ETHICS
25 COMMISSION MAY BRING A MANDAMUS ACTION TO COMPEL THE REQUIRED
26 CAMPAIGN FINANCE DISCLOSURE REPORTS; TO AMEND SECTION 23-15-813,
27 MISSISSIPPI CODE OF 1972, TO MAKE TECHNICAL CHANGES; TO AMEND
28 SECTION 23-15-817, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT THE
29 LIST OF CANDIDATES WHO FAILED TO FILE A CAMPAIGN FINANCE REPORT BE
30 PROVIDED TO THE MISSISSIPPI ETHICS COMMISSION; AND FOR RELATED
31 PURPOSES.

HR31\SB2689PH.1J

Andrew Ketchings
Clerk of the House of Representatives